



IN THE CLAIMS:

Please cancel claims 1-20 without prejudice to or disclaimer of the subject matter recited therein.

Please replace with the following claims 21-31:

21. (new) An isolated polynucleotide comprising:
 - (a) a nucleotide sequence encoding a polypeptide having toxin activity, wherein the polypeptide has an amino acid sequence of at least 95% sequence identity, based on the Clustal V method of alignment, when compared to SEQ ID NO:9, or
 - (b) a complement of the nucleotide sequence, wherein the complement and the nucleotide sequence consist of the same number of nucleotides and are 100% complementary.
22. (new) The polynucleotide of Claim 21, wherein the amino acid sequence of the polypeptide comprises SEQ ID NO:9.
23. (new) The polynucleotide of Claim 21 wherein the nucleotide sequence comprises SEQ ID NO:8.
24. (new) A vector comprising the polynucleotide of Claim 21.
25. (new) A recombinant DNA construct comprising the polynucleotide of Claim 21 operably linked to at least one regulatory sequence.
26. (new) A method for transforming a cell, comprising transforming a cell with the polynucleotide of Claim 1.
27. (new) A cell comprising the recombinant DNA construct of Claim 25.
28. (new) A method for producing a plant comprising transforming a plant cell with the polynucleotide of Claim 21 and regenerating a plant from the transformed plant cell.
29. (new) A plant comprising the recombinant DNA construct of Claim 25.
30. (new) A seed comprising the recombinant DNA construct of Claim 25.
31. (new) A method for isolating a polypeptide having toxin activity comprising isolating the polypeptide from a cell or culture medium of the cell, wherein the cell comprises a recombinant DNA construct comprising the polynucleotide of Claim 21 operably linked to at least one regulatory sequence.